

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JON MAJOR,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS ,

Defendant.

CASE NO. 3:23-cv-05307-RAJ-MLP

ORDER ON MOTION FOR
RECUSAL (DKT. NO. 34)

I. INTRODUCTION

This matter comes before the Court following referral by United States Magistrate Judge Michelle L. Peterson (Dkt. No. 37) of Petitioner Jon Major's motion for recusal (Dkt. No. 34). For the reasons discussed herein, the Court AFFIRMS Judge Peterson's refusal to recuse herself.

II. BACKGROUND

On April 7, 2023, Petitioner Jon Major filed a proposed petition for a writ of habeas corpus. (Dkt. No. 1.) He amended this petition three times. (Dkt. Nos. 3, 13, 18.) On July 3,

2023, Petitioner filed a motion for default judgment (Dkt. No. 25), which Judge Peterson denied (Dkt. No. 27). On August 9, 2023, he filed a second motion for default judgment. (Dkt. No. 32.)

On August 11, 2023, Petitioner filed the instant motion, requesting Judge Peterson recuse herself “from determining Petitioner’s Motion for Default Judgment . . . and to transfer the motion to the Honorable Judge Richard A. Jones for determination of its merits.” (Dkt. No. 34 at 1–2.) Judge Peterson declined to recuse herself and, per Local Rule 3(f), referred the matter to the undersigned. (Dkt. No. 37.)

III. DISCUSSION

Local Civil Rule 3(f) requires a challenged judge to review motions filed pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455 and to determine whether to recuse voluntarily. LCR 3(f). If the challenged judge declines to recuse voluntarily, they must direct the court clerk to refer the motion to the chief judge for their review. *Id.*

28 U.S.C. § 455(a) provides that a judge of the United States “shall disqualify himself” in any proceeding in which their “impartiality might reasonably be questioned.” The statute further provides the judge must recuse “[w]here he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.” 28 U.S.C. § 455(b)(1). 28 U.S.C. § 144 similarly requires recusal when “a party to any proceeding in district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party.” 28 U.S.C. § 144. The standard for recusal under both statutes is the same—“[w]hether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned.” *United States v. McTiernan*, 695 F.3d 882, 891 (9th Cir. 2012) (internal quotation marks omitted). A party must timely move for recusal and “[e]nforcing the

